

## § 4280.116

## 7 CFR Ch. XLII (1–1–11 Edition)

(5) *Contract award.* Applicants awarding contracts must comply with 7 CFR subpart C of part 1780, § 1780.70(h) of this title.

(6) *Contracts awarded prior to applications.* Applicants awarding contracts prior to filing an application must comply with 7 CFR subpart C of part 1780, § 1780.74 of this title.

(7) *Contract administration.* Contract administration must comply with 7 CFR subpart C of part 1780, § 1780.76 of this title. If another authority, such as a Federal or State Agency, is providing funding and requires oversight of inspections, change orders, and pay requests, the Agency may accept copies of their reports or forms as meeting oversight requirements of the Agency.

### § 4280.116 Grantee requirements.

(a) A Letter of Conditions will be prepared by the Agency, establishing conditions that must be understood and agreed to by the applicant before any obligation of funds can occur. The applicant must sign a “Letter of Intent to Meet Conditions” and Form RD 1940–1, “Request for Obligation of Funds,” if they accept the conditions of the grant.

(b) The grantee must sign and abide by all requirements contained in Form RD 4280–2 and this subpart.

### § 4280.117 Servicing grants.

Grants will be serviced in accordance with subparts E and O of part 1951 of this title and Form RD 4280–2.

### §§ 4280.118–4280.120 [Reserved]

## SECTION B. GUARANTEED LOANS

### § 4280.121 Borrower eligibility.

To receive a guaranteed loan under this subpart, a borrower must meet each of the criteria, as applicable, identified in § 4280.107(a)(1) through (4).

### § 4280.122 Project eligibility.

For a project to be eligible to receive a guaranteed loan under this subpart, the project must meet each of the criteria, as applicable, in § 4280.108(a) through (g). In addition, guaranteed loan funds may be used for necessary capital improvements to an existing renewable energy system.

### § 4280.123 Guaranteed loan funding.

(a) The amount of the loan that will be made available to an eligible project under this subpart will not exceed 50 percent of total eligible project costs. Eligible project costs are specified in paragraph (e) of this section.

(b) The minimum amount of a guaranteed loan made to a borrower will be \$5,000, less any program grant amounts. The maximum amount of a guaranteed loan made to a borrower is \$10 million.

(c) The percentage of guarantee, up to the maximum allowed by this section, will be negotiated between the lender and the Agency. The maximum percentage of guarantee is 85 percent for loans of \$600,000 or less; 80 percent for loans greater than \$600,000 up to and including \$5 million; and 70 percent for loans greater than \$5 million up to and including \$10 million.

(d) The total amount of the loans guaranteed by the Agency under this program to one borrower, including the outstanding principal and interest balance of any existing loans guaranteed by the Agency under this program, and new loan request, must not exceed \$10 million.

(e) Eligible project costs are only those costs associated with the items identified in paragraphs (e)(1) through (11) of this section, as long as the items are an integral and necessary part of the renewable energy system or energy efficiency improvement.

(1) Post-application purchase and installation of equipment (new, refurbished, or remanufactured), except agricultural tillage equipment, used equipment, and vehicles.

(2) Post-application construction or improvements, except residential.

(3) Energy audits or assessments.

(4) Permit and license fees.

(5) Professional service fees, except for application preparation.

(6) Feasibility studies and technical reports.

(7) Business plans.

(8) Retrofitting.

(9) Construction of a new energy efficient facility only when the facility is used for the same purpose, is approximately the same size, and based on the energy audit will provide more energy

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savings than improving an existing facility. Only costs identified in the energy audit for energy efficiency improvements are allowed.

(10) Working capital.

(11) Land acquisition.

(f) In determining the amount of a loan awarded, the Agency will take into consideration the following six criteria:

(1) The type of renewable energy system to be purchased;

(2) The estimated quantity of energy to be generated by the renewable energy system;

(3) The expected environmental benefits of the renewable energy system;

(4) The extent to which the renewable energy system will be replicable;

(5) The amount of energy savings expected to be derived from the activity, as demonstrated by an energy audit comparable to an energy audit under 7 U.S.C. 8105; and

(6) The estimated length of time it would take for the energy savings generated by the activity to equal the cost of the activity.

### § 4280.124 Interest rates.

(a) The interest rate for the guaranteed loan will be negotiated between the lender and the applicant and may be either fixed or variable as long as it is a legal rate. The variable rate must be based on published indices, such as money market indices. In no case, however, shall the rate be more than the rate customarily charged borrowers in similar circumstances in the ordinary course of business. The interest rate charged is subject to Agency review and approval.

(b) Comply with § 4279.125(a), (b), and (d) of this chapter.

### § 4280.125 Terms of loan.

(a) The repayment term for a loan for:

(1) Real estate must not exceed 30 years;

(2) Machinery and equipment must not exceed 20 years, or the useful life, including major rebuilds and component replacement, whichever is less;

(3) Combined loans on real estate and equipment must not exceed 30 years; and

(4) Working capital loans must not exceed 7 years.

(b) The first installment of principal and interest will, if possible, be scheduled for payment after the project is operational and has begun to generate income.

(c) Payment terms must comply with § 4279.126(c) of this chapter.

(d) The maturity of a loan will be based on the use of proceeds, the useful life of the assets being financed, and the borrower's ability to repay.

(e) All loans guaranteed through this program must be sound, with reasonably assured repayment.

(f) Guarantees must be provided only after consideration is given to the borrower's overall credit quality and to the terms and conditions of renewable energy and energy efficiency subsidies, tax credits, and other such incentives.

(g) A principal plus interest repayment schedule is permissible.

### § 4280.126 Guarantee/annual renewal fee percentages.

(a) *Fee ceilings.* The maximum guarantee fee that may be charged is 1 percent. The maximum annual renewal fee that may be charged is 0.5 percent. The Agency will establish each year the guarantee fee and annual renewal fee and a notice will be published in the FEDERAL REGISTER.

(b) *Guarantee fee.* The guarantee fee will be paid to the Agency by the lender and is nonrefundable. The guarantee fee may be passed on to the borrower. The guarantee fee must be paid at the time the Loan Note Guarantee is issued.

(c) *Annual renewal fee.* The annual renewal fee will be calculated on the unpaid principal balance as of close of business on December 31 of each year. It will be calculated by multiplying the outstanding principal balance times the percent of guarantee times the annual renewal fee. The fee will be billed to the lender in accordance with the FEDERAL REGISTER publication. The annual renewal fee may not be passed on to the borrower.